SESSION 1938

HOUSE OF COMMONS

STANDING COMMITTEE

ON

RAILWAYS, CANALS AND TELEGRAPH LINES

MINUTES OF PROCEEDINGS AND EVIDENCE

Respecting

BILL No. 31—THE TRANSPORT ACT, 1938

No. 4

TUESDAY, MAY 10, 1938

WITNESSES:

Mr. W. E. Campbell, Chief Traffic Officer, Board of Railway Commissioners.
Hon. Mr. Guthrie, Chief Commissioner, Board of Railway Commissioners.
Mr. A. W. Neill, M.P.
Mr. Thomas Reid, M.P.

OTTAWA
J. O. PATENAUDE, I.S.O.
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
1938

MINUTES OF PROCEEDINGS

TUESDAY, May 10, 1938.

The Standing Committee on Railways, Canals and Telegraph Lines met at 10.30 a.m. Mr. Vien, the Chairman, presided.

Members present: Messrs. Barber, Bertrand (*Laurier*), Brown, Damude, Duffus, Dupuis, Elliott (*Kindersley*), Emmerson, Fiset (Sir Eugene), Gladstone, Hanson, Heaps, Howden, Isnor, Johnston (*Bow River*), Lockhart, MacKinnon (*Edmonton West*), MacNicol, McCallum, McCulloch, McIvor, McKinnon (*Kenora-Rainy River*), Maybank, Mutch, Parent (*Terrebonne*), Pelletier, Ross (*Moose Jaw*), St. Père, Stevens, Stewart, Vien, Young.

In attendance: Hon. Mr. Howe, Minister of Transport; Hon. Mr. Guthrie, Chief Commissioner, Board of Railway Commissioners; Mr. W. E. Campbell, Chief Traffic Officer, Board of Railway Commissioners; Mr. W. J. Matthews, Law Branch, Department of Transport; Mrs. Black, M.P.

Bill No 31, An Act to establish a Board of Transport Commissioners for Canada, with authority, in respect to transport by railways, ships and aircraft.

Mr. Walker, who appeared as a witness on May 5, submitted corrections to the evidence he gave on that date. (*See appendix to to-day's evidence*).

Twenty-one air lines operating companies were advised of this day's meeting, called for the purpose of hearing submissions from such companies. Several people were present in the interests of these air line operating companies, but no brief was submitted and nobody accepted the Chairman's invitation to make a statement.

Mr. W. E. Campbell, Chief Traffic Officer, Board of Railway Commissioners, was recalled for further questioning. He filed,—

(*a*) A copy of a judgment, dated January 3, 1936, given by the Board of Railway Commissioners respecting rates on potatoes from the Maritime Provinces to Ontario;

(*b*) A copy of a compilation of competitive tariff rates issued by the Canadian National Railways;

(*c*) A copy of a pamphlet, Canadian Freight Association, No. 1985, Consumers' Co-operative Refineries, Limited, Regina, Sask. and others.— Gasoline and Crude Petroleum Oil, Calgary, Alta. to points in Saskatchewan. Board of Railway Commissioners for Canada. Order No. 55340. December 20, 1937.

Mr. Campbell retired.

Hon. Mr. Guthrie, Chief Commissioner, Board of Railway Commissioners was called. He anticipated no difficulty in the matter of administration, provided water and aircraft experts were added to the staff of the present Board.

Hon. Mr. Guthrie retired.

Mr. A. W. Neill, M.P., was called. He spoke in opposition to Agreed Charges and suggested that Bill No. 31 should include the control of itineraries and rates on passenger ships operating in the coastal waters of British Columbia.

Mr. Neill retired.

Mr. Thomas Reid, M.P., was called. He read a brief in favour of setting up of a new board of appeal; alleging discrimination will be exercised against water transport companies established in the future; and opposing the establishment of Agreed Charges.

After being questioned Mr. Reid retired.

The Committee adjourned until Thursday, May 12, at 10.30 a.m.

JOHN T. DUN,
Clerk of the Committee.

MINUTES OF EVIDENCE

HOUSE OF COMMONS, Room 277,

May 10, 1938.

The Select Standing Committee on Railways, Canals and Telegraphs, met at 10.30 a.m., Mr. Thomas Vien, the chairman, presided.

The CHAIRMAN: Order, gentlemen. We now have a quorum. The order of the day contained a reference to Captain Foote of the Foote Transit Company and Mr. Campbell, an associate of Captain Foote. These gentlemen have requested the privilege of being heard again pursuant to the hearing which was held on shipping. We are in receipt of a telegram from Captain Foote reading as follows:—

> Owing to one of our ships having met with disaster I have received an urgent call to Chicago and regret that I will not be able to appear before the committee as arranged for Tuesday morning but would like to do so a little later at some mutually convenient date if it can be arranged.

So we will leave this telegram on the table for the time being. We will see how our sittings develop, and try to arrange it so that we can give Captain Foote a chance of being heard at a later date.

I have also received a letter from the Calgary Board of Trade, enclosing a copy of a letter to the Hon. the Minister of Transport dated March 5, 1938, reading as follows:—

> At a meeting of the council of our board held on Wednesday last the proposed Canadian transport bill was considered and upon the report and recommendation of the transportation committee the following resolution was unanimously adopted—
>
> > That the council of the Calgary Board of Trade approve the recommendation of the transportation committee, i.e. that if the agreed charges section of the transport bill permits the railways to make special contracts with any trader without at the same time extending the same contracts to other shippers of the same class of goods, that we go on record as being opposed to such an arrangement.
> >
> > And that a copy of this resolution be forwarded to the Hon. C. D. Howe, Minister of Transport Ottawa, and to the Calgary members of the House of Commons.
>
> We recognize the difficulties the railways labor under, particularly in the matter of highway competition which is not controlled or regulated by the Dominion government and that at the present time motor truck operators in Alberta are free to make any rates they please. At the same time we are of the opinion that the adoption of an "agreed charges" system which would permit the railways to make a contract with one shipper without immediately advising all shippers of the same class of goods and extending to them the same contract rates and arrangements, would result in discrimination which should not be allowed.
>
> We hope you will kindly give our views your careful consideration.
>
> Yours faithfully,
>
> Sgd. J. H. HANNA,
> *Secretary.*

We have also received a letter from the Joint Legislative Committee, Railway Transportation Brotherhoods, through the secretary, Mr. Best, reading as follows:—

> Confirming our conversation on Thursday last regarding representations on behalf of the Dominion Joint Legislative Committee of the Railway Transportation Brotherhoods to the Railway Committee respecting Bill 31: You intimated there might be an opportunity on Tuesday next. However, if convenient to yourself and the committee, we would prefer to come on a little later, following the submissions on behalf of the highway transport interests.

This will also remain on the table to be arranged as our sittings develop.

We have received a letter from Mr. Walker asking leave to make certain corrections of errors which appeared in our minutes of proceedings as printed from day to day. The letter will be printed in the daily minutes of the committee, and every member will have the advantage of taking note of the corrections. (*See Appendix*).

We have sent out telegrams inviting the airlines of Canada to appear to-day and to make such representations as they may deem advisable. Is there anybody here representing the airlines?

Mr. L. CLARE MOYER K.C.: Mr. Chairman, I have instruction to appear for Skylines Express Limited of Toronto whose president is in New York at the moment. He simply instructed me to attend and observe the proceedings. I understand also that Mr. Lee Britnell, head of the Mackenzie Aircraft of Edmonton is here in the city, and expects to be here this morning.

The CHAIRMAN: Do you know if he has any submission to offer?

Mr. MOYER: I doubt it.

Mr. MACKINNON (Edmonton West): Mr. Britnell did not know this was on. He just happened to be in the city, and I invited him here this morning.

The CHAIRMAN: Is there any party here represented desirous of addressing the committee on behalf of the airlines?

Mrs. M. L. BLACK: Mr. Chairman, at the request of the president and general manager of the White Pass and Yukon Route, I am attending simply to observe the proceedings.

The CHAIRMAN: Are there any others appearing on behalf of the airlines?

Mr. ROSS: I was asked to appear as an observer for United Aircraft, Edmonton.

The CHAIRMAN: Are there any other appearances?

Mr. RICHARDSON: I was asked at the last moment to watch the proceedings for British American Airways.

Mr. YOUNG: In order that the record may be clear, I was just wondering if we should not put in a little more than "Mr. Ross" and "Mr. Richardson". Are they from Ottawa?

The CHAIRMAN: Mr. Ross, will you give us your first name and address?

Mr. ROSS: J. M. Ross, and my address is Ottawa. I am in the capacity of the managing-editor of Canadian Aviation.

The CHAIRMAN: Mr. Richardson?

Mr. RICHARDSON: Harold B. Richardson.

The CHAIRMAN: Your address?

Mr. RICHARDSON: Ottawa.

The CHAIRMAN: And you appear on behalf of whom?

Mr. RICHARDSON: The British American Airways.

Mr. BIRCHALL: Mr. Chairman—

The CHAIRMAN: What is your first name?

Mr. BIRCHALL: William—W. P. I am just watching on behalf of Commercial Air Transport Operators.

The CHAIRMAN: Your address is what, Mr. Birchall?

Mr. BIRCHALL: Ottawa.

The CHAIRMAN: Is there anybody else appearing here on behalf of the airlines? Well, it would seem that the airliners are not committee-minded; they are air-minded. Therefore there is no submission to be received from the aircraft interests. Then we shall pass on to something else.

At the last sitting of the committee Mr. Stevens, I think, asked for some information to be prepared by Mr. Campbell. Mr. Campbell is here and is ready to give this information. I will call on Mr. Campbell.

W. E. CAMPBELL, called.

The WITNESS: Mr. Stevens' question, as I understood it, was as to the manner of administration of the Railway Act, in a case of two points of origin of equal distance from a point of destination from one of which there is competition, truck or water or some—

By Hon. Mr. Stevens:

Q. I tried to make it abundantly clear that I am not discussing water competition at all.—A. Competition of any character.

Q. No.—A. Take trucks.

Q. Trucks, yes. To clarify the point, the statement up to that point is correct. What I asked is this: there were on file with the Board of Railway Commissioners cases where decisions had been rendered in connection with the establishment of competitive rates where the competition was by truck. I said, very good. I should like to have these cases tabled with the committee so that we might study them. Now, that is what I am concerned with. I thought I made it very clear the other day that I was quite aware of the old principle of water competition; that is an old established principle, and has been settled ever since before the Board of Railway Commisisoners existed. I was not concerned about that. I was concerned about the question of truck competition which, after all, is the root of this whole business.—A. The provisions of the Railway Act, sir, deal with competition and the principle controlling truck competition would be exactly the same as water. Now, we have not very many cases where the decisions of the board have dealt specifically with truck competition. There is one case where there was combined water and truck rate. There was a case where interests in the Maritime provinces alleged that under the provisions of the Maritimes Freight Rates Act they had been deprived of certain provisions of the Act by reason of the establishment of competitive rates by the railways in Ontario to meet truck competition. There is a decision of the board on that point. But if there had been a specific truck rate before the board the principle would be exactly the same as in this case I have on the table.

Q. Mr. Chairman, may I ask this question. Have you got that particular case you are now referring to with you, Mr. Campbell? Have you the decision in regard to that case?—A. Which one?

Q. The one you mentioned where the decision was based upon truck competition?—A. In the Maritimes, yes, sir. It is a rather lengthy judgment. It is found in volume 25 at page 437 of the board's printed judgments and orders.

Q. You are tabling it now?—A. Yes, sir.

By the Chairman:

Q. Will you give the heading?—A. The heading is as follows: "Application of the Transportation Commission of the Maritime Board of Trade for a reduction in rates on potatoes by three cents per bushel or five cents per one hundred pounds, carloads, to correspond with reductions in Ontario and Quebec, having been made to meet truck competition."

By Hon. Mr. Stevens:

Q. Now, then, have you that case of the reduction in Ontario because of truck competition referred to in this decision?—A. I do not understand your question.

Q. You referred, Mr. Campbell, in this decision you have cited, to a decision in Ontario based upon truck competition. Now I ask you, have you the decision to which you refer, the Ontario decision?—A. In this case, the competitive rate to be given by the railway, was between points in Ontario to meet trucking competition there.

Q. Yes. I am asking about that decision.—A. That is in this decision. The decision hinged upon the complaint by interests in the Maritimes that by reason of the establishment of this truck competition rates in Ontario they had been prejudiced.

Q. I am either dense or unable to make myself clear. I understand the decision that has been tabled is a decision affecting the Maritimes, and the application was made by a Maritime body; is that right?—A. Complaint against rates established within Ontario to meet truck competition.

Q. Exactly. I am asking you if you will please table the decision in Ontario to which reference is made?—A. It is all involved in the same case and is tabled here, sir.

Q. Well, that is that. I shall read this over. Do I understand, Mr. Campbell, then that there have been decisions made by the board on specific applications for a competitive rate by the railways as affected by truck competition?—A. The railways do not require to make an application to the board prior to the establishment of a competitive rate.

Q. They have to have their rates approved, or their new rate approved.—A. No, sir; the only rate that requies specific approval under the Railway Act is what is known as the standard rate. Special tariffs and competitive tariffs are merely filed, giving the required notice for increase or decrease in the rate as the case may be.

By Mr. Pelletier:

Q. On what authority are they issued?—A. Sections 331 and the following of the Railway Act.

By Hon. Mr. Stevens:

Q. Mr. Campbell, I think we are really at cross purposes. These competitive rates that would be established by the railway are filed with the board under certain sections of the Railway Act.—A. Yes, sir.

Q. And if they are not challenged either by the board or by some body appearing before the board then they remain as fixed rates for the time being.—A. Yes, sir. They come into effect as of the date shown to be effective.

Q. Would you be good enough to table some illustrations of such rates based solely on truck competition?—A. I will table the tariff issued by the Canadian National Railways which contains thousands of rates. The title page says: "The rates in this tariff are competitive and are published to meet motor truck and/or water competition."

Q. I am very stubborn, I am afraid—

Mr. YOUNG: In order that we might make the thing quite clear—

Hon. Mr. HOWE: Mr. Jefferson is here, perhaps he may be able to help you.

Hon. Mr. STEVENS: Perhaps I need help.

By Mr. Young:

Q. In the case of the rate on crude from Calgary to Regina, if all that it is necessary for the railways to do is to set a special rate, why did the Board of Railway Commissioners have to hold an investigation into that matter?— A. In that case I think perhaps it would be well to table that judgment, too, in view of the discussion that has taken place. What occurred in that case, Dr. Young, was that the railways had a conference with the British-American and Imperial Oil Companies, and data were received indicating clearly that unless they put in a very low rate from Calgary to Moose Jaw and Regina it was the intention of the companies to build a pipe line. Surveys had been made and estimates had been made. The railways therefore put in a rate of 19 cents from Calgary to Regina. I think it was 18½ cents to Moose Jaw; and they stipulated the rate would apply only when there were 25 cars or more shipped at one time by one shipper. That resulted in a complaint to the board from some of the smaller refineries, notably at Regina, who alleged discrimination because they only bring one or two cars at a time, and their rate was very much higher. Well, the decision of the board in this judgment that I will file was that the stipulation requiring 25 cars was removed and the rate would apply to one or more cars. There were other points involved in the complaint. I thought that was an answer to your question.

Q. Thank you very much for putting that on the record. That was my understanding of the case exactly. I understand fully that I am talking to the wrong group now when I am talking to this committee, but I thought I should say something to the Board of Railway Commissioners, because the question of competition is involved in this bill. The question of the pipe line shows the absurdities which we sometimes get in these freight rates. Between Calgary and Regina we have two railways operating, one the Canadian Pacific Railway, the other the Canadian National Railways. The Canadian National, however, have to operate via Saskatoon where we have a small refinery which was given no consideration whatever in this judgment.

Hon. Mr. GUTHRIE: Yes.

Mr. YOUNG: The Canadian National Railways haul crude oil from Calgary to Regina via Saskatoon, a distance of 560 miles. The distance between Calgary and Saskatoon is 400 miles, and then they have to go a further distance of 160 miles or 560 miles altogether. The rate they charge on that is 19 cents; but if they bring that crude oil from Calgary to Saskatoon where there is a small refinery then that small refinery must pay on a basis of 24 cents per 100 pounds.

The CHAIRMAN: Are there any competitive conditions at Saskatoon similar to those that exist at Regina?

Mr. YOUNG: Well, there certainly are. Just the same, the statement Mr. Campbell made is the one I wanted on the record. This judgment was given as a result of a complaint by a small refinery in Regina—

The CHAIRMAN: Are there any competitive conditions with respect to volume?

Mr. YOUNG: With respect to volume, yes, and in order to meet the complaint of the small refinery in Regina it now applies to the one car; but it does not apply to Saskatoon. However, I am not going to discuss the competitive point here. The small refinery at Saskatoon must pay 24 cents.

The CHAIRMAN: When you say "competition" do you say competition with respect to carriance or with respect to the refinery?

Mr. YOUNG: I am not arguing the competitive point before this committee, because I recognize it is before the wrong body. The facts are the Canadian National Railways compete with the Canadian Pacific Railway for the business at Regina, and get 5 cents less for carrying the crude to Regina and hauling it 160 miles further. In order to get the crude to Regina they must haul it right through the city of Saskatoon. If I had about an hour of your time I could discuss competitive rates and competition, but I am not doing it here.

The CHAIRMAN: Do you appreciate the railway board has no jurisdiction to compel the railway company to publish competitive rates?

Mr. YOUNG: Well, now, if you were the Board of Railway Commissioners I would argue that with you, but you are not, so I am not arguing the question before the committee. I am bringing this up before the committee in order that we might not permit the same condition to exist when the bill is passed. I realize that we are not discussing pipe lines or water, but we are discussing competition with regard to trucks, and I can see where the identical situation would prevail unless we are fully cognizant of what we are doing with regard to this bill.

The CHAIRMAN: The Minister of Transport has said he did not want this bill to change the fundamental principles of the Railway Act, and to render our record more intelligible I would like to point out that the railways are permitted, but cannot be compelled, to publish competitive rates. Then, these competitive rates when they are published by the railways can be attacked, as was the case in Regina where the small refinery attacked the tariff on the question of volume, and the board immediately caused this rate to be corrected so as to protect the smaller producer at Regina. But the Board of Railway Commissioners cannot compel the companies to extend their competitive rates to non-competitive areas.

Mr. YOUNG: Mr. Chairman, I understand there is provision in the Railway Act whereby, if they so desire, and if in their judgment it should be done, it can be made applicable at least to a certain degree; and it is in that certain degree I think they have power to do the thing which I am suggesting should be done.

The CHAIRMAN: Well, it may be made to apply to a certain degree, as was done in the case of Regina, when there is a question of volume but not a question of rate. If you could show that there was competition as between carriers to Saskatoon, then there might be a question to urge to the railway management, but not to the Board of Railway Commissioners.

Mr. HEAPS: Mr. Chairman, have we not got a witness on the stand?

The CHAIRMAN: Yes. Will you continue, Mr. Stevens?

By Hon. Mr. Stevens:

Q. Mr. Campbell, can you pick out of this tremendous volume of detailed rates one case illustrating the question which I submitted at the last meeting and dealing only with truck competition?—A. That is to say, can I open the tariff here and find a rate on a commodity between two points, and then could I tell you whether on the same commodity, from some other point not here shown—

Q. At a similar distance.—A. —where there is no truck competition, they do not establish a lower rate?

Q. Truck competition.—A. Truck competition?

Q. Not water competition.—A. I cannot give you that information from the tariff, because all that is filed with the board is the tariff. As to the circumstances surrounding these rates and whether there is another point shipping the same commodity from which they have not established a corresponding reduction—the railways can answer you on that but I cannot, sir. The only time we would be cognizant of all the circumstances surrounding a rate of this kind would be when some inquiry or complaint had been made concerning it.

Q. Would it be correct to say that so far as you know there is no such case before the Railway Board?—A. There is no case before the board.

Q. And that no decision has been made on that particular thing?—A. The only recent decision was when there was a movement of coal by water to Port Stanley, thence by truck to St. Thomas and London.

Q. That is the water competition case?—A. Water and truck.

Q. Well, I am not concerned about that. In that case that you mentioned a while ago referring to the maritimes, the complaint there was that in Ontario they had lower rates than they had in the maritimes, and they were asking in the maritimes for a similar rate. Was that the decision?—A. No, sir. Naturally there would be lower rates in Ontario because the haul is shorter; but they have gone further and put in rates to meet truck competition.

Q. You keep referring to that, but I am asking you to submit to us an illustration of that.—A. That judgment has information showing that in a given year, we will say, there were 25,000 tons of potatoes moved all rail and in two or three years that had petered down to two or three thousand tons. They put in some competitive rates with the object of endeavouring to regain some of that potato business.

Q. They were general; they were not between any specific points?—A. They were general up to, I think, a distance of 150 to 200 miles.

Mr. PELLETIER: Perhaps I could make this matter clearer to Mr. Campbell.

By Mr. Pelletier:

Q. For example, if there is between two existing points—if the railways are carrying cattle, say, a distance of fifty or sixty miles between a rural point and a city, and the railways are carrying those cattle to the city, they have a tariff established governing those rates. Now, suppose truck competition develops between those two points and immediately we will see a competitive tariff published by the railway company giving in effect lower rates upon the cattle in order to meet the truck competition. We could, perhaps, get at the point in this way: if you would submit or if you could submit to us the former tariff which was in existence before the competitive rates were issued, and also the tariff showing the new competitive rates based upon the fact that trucks had entered into competition with the railways and have established new competitive rates—if we could have some instance of these rates we could get at the facts which were behind these rates later on. I think the main point is to compare the rates as they existed before competition and as they were later published because of truck competition?—A. If I am handling commodities to the point in which you would like a comparison of that kind, I will be glad to have it supplied.

Q. There is an example which I have in mind. I believe that in Alberta between a town called Westlock and the city of Edmonton there is a good deal of various sorts of commodities carried between those two points, Edmonton being the distributing city and Westlock shipping in cattle and various other commodities. Now, previous to the development of truck competition certain railway rates were in effect—certain tariffs were in effect between Westlock and Edmonton—since highways became better and truck accommodation developed, the Northern Alberta Railway Company established what they called competitive freight rates in order to meet truck competition between Westlock and Edmonton. I am asking if we could have the previous tariff—the tariff which was in effect between Westlock and the city of Edmonton on cattle, for example, previous to the establishment of the competitive freight rates. That would be one side of the picture. The second set of figures that we should have would be the freight rates as established through the authority of a competitive tariff later published by the Northern Alberta Railways when the truck traffic became competitive with railway traffic. If we had those two sets of figures we could provide for Mr. Stevens with the information he desires. We could ask why it was necessary for a competitive tariff to be estab-

lished and then we could ascertain the fact?—A. You would have to ask the railways why they put in the rate. Your inquiry as to the measure of the rates should be directed to the railway.

Q. We should have a set of figures on the previous tariff?—A. I can furnish that.

Q. And the tariff which was later in effect, in the competitive tariff to meet competition between Westlock and Edmonton. I use those two points because I have them in mind.

By Mr. Heaps:

Q. There was one point I would like to refer to. I want to refer again to the Maritimes which were cited as an example a few minutes ago. In the case of the reduction of freight rates in the Maritimes on potatoes, was that because of actual competition of buses in the Maritimes or competition with trucks in the province of Ontario?—A. It grew out of the complaint on the Maritime Freight Rates Act which, as you know, established certain reductions in the Maritimes and from the Maritimes westbound, and section 8 of that Act in substance stated that a tariff should not be established outside of what is termed by the Act as select territory which would destroy the advantage that they obtained under the Maritimes Freight Rates Act. Now, the allegation was that the establishment of the competitive rates in Ontario had contravened the provisions of section 8 of that Act.

Q. Were the shippers in the Maritimes actually faced with truck competition within their own borders?—A. The rates that were subject to complaint were rates from the Maritimes to points in Ontario, not between points in the Maritimes themselves.

Q. Are you in a position to inform us whether they are actually facing competition of trucks within the Maritimes?—A. I know there is truck competition in the Maritimes. I do not know that it is quite as intense as in Ontario.

Q. The complaint of the Maritime shippers was because of the discriminatory rates met with in the province of Ontario?—A. Their contention was that they should get a corresponding reduction from the Maritime points to Ontario to the reduction made in Ontario.

Q. You do not know whether there is competition with trucks in the Maritimes or not?—A. There is no truck competition from a potato growing point in the Maritimes to Toronto, for instance—there is no truck hauling. There is truck competition locally within the Maritimes.

Q. That was not the cause of the request for the reduction of the tariff? —A. No, sir.

The CHAIRMAN: Mr. Stevens, are you quite through?

Hon. Mr. STEVENS: No, I am not finished yet.

The CHAIRMAN: You were interrupted, proceed.

By Hon. Mr. Stevens:

Q. The point, Mr. Campbell, I am getting at is this. I dislike making speeches when we are examining a witness, but I fear I shall have to explain. This bill provides for agreed rates. That is the very essence of the bill, and to that some objection is being taken. I gathered from you the other day that under the provisions of the Railway Act as it has been administered for a great many years it was competent for a railway to apply for or to file competitive rates. Such competitive rates might be based upon water competition or other factors, or truck competition. I am emphasizing truck competition now because it is responsible largely for this whole matter being raised. I submitted a question, and the object of the question was to determine whether there might not be discrimination under the new bill which would not occur under the present

Act, and the question was: there are two shipping points A and B equidistant from a third receiving point C; at these two shipping points are two factories engaged in a similar occupation or in similar production. From one of these, we will say, there is truck competition. Now, the question is, under the new Act would it be competent for the railway to apply for approval of an agreed contract rate from, we will say, B to C—because of truck competition which would not be applied from A to C— —A. There being no truck competition.

Q. There being no truck competition.—A. My answer would be yes.

Q. The second question was this: under the present Act, it would not be competent for the railways to secure such a competitive rate that would not be applicable to the other point?—A. Yes, sir.

Q. Now, all I ask is this: you assert that and I have asked for the submission of examples of that to be filed, and up to the present time we have not got them?—A. Well, I cannot conceive why you tie me down to truck competition, because the competition may be truck or it may be water or a combination. Now, I have a case of water, which you want to keep away from—

Q. Certainly; that is an admitted principle.—A. —that answers your question.

Q. No. The reason I persist in asking for an illustration of truck competition is because the very essence of this bill is based upon the inability to contend with this growing truck competition. In other words, we are making an effort in this bill to overcome the handicap of truck competition, and the submission of many who oppose the bill is this, that if we adopt the agreed rate principle to deal with that obvious difficulty, we are going to introduce discrimination between competitive producers—that is unfair—and it is to get at the root of that and to receive assurances, if possible, that under the new Act such discrimination could not apply that we are carrying on this discussion on this particular part of the examination. Now, I gathered from you in the illustration I gave you that under the agreed rate it would be possible to establish or create a condition where this unfair condition would arise between two shippers, and if that is so then I submit—

Hon. Mr. HOWE: I object to the word "unfair." Why is it unfair? If it is a competitive rate the shipper will get the low rate anyway.

Hon. Mr. STEVENS: It is unfair in this sense, that the one is precluded from getting the agreed rate with the railway.

Hon. Mr. HOWE: He cannot get the truck rate either.

Hon. Mr. STEVENS: If his competitor gets the rail rate he is entitled to the rail rate too.

Hon. Mr. HOWE: Why? It is a principle of the Act that the railways or anyone under the Railway Act can meet competition. If there is no competition there is nothing to meet.

Mr. YOUNG: It becomes very discriminatory between communities.

Hon. Mr. HOWE: Why? If it is possible to have truck competition, the community that has truck competition will get the low rate anyway.

By Hon. Mr. Stevens:

Q. May I ask the witness this question: in this page of tariffs—competitive tariffs that you have filed—every one of those tariffs is open to all shippers at these different points?—A. Yes, sir.

Q. Any shipper?—A. Yes, sir.

Q. It is not limited to one that is agreed between the railway and the shipper? —A. No, sir.

Q. Under the new bill, such a competitive rate, if you like to use that term, or agreed rate, would be limited to the one shipper, would it not?—A. No, sir.

Q. I mean that it would be limited to one shipper unless others came in and made application?—A. No, sir; it has been stated several times that any shipper that would agree to give the railways a fixed, agreed percentage of his business would get the same rate.

Q. Any shipper that would agree to give the railway the same conditions in shipping as the contract shipper, would be entitled to the same rate?—A. Yes, sir.

Q. But if he was not able to comply with those conditions he would be denied that rate?—A. I do not know about being able. The object was that under this tariff he can give that to the railway, or to the railway to-day and to the truck to-morrow. Under the agreed rate he will give it to the railway.

Take your case of the pipe line competition. The original agreement there was twenty-five cars, and it required a ruling by the board and a decision of the board to give to the shipper with one car the same rate?—A. That could be explained, although it is a rather long story. The reason they put the twenty-five car requirement in originally was that in the United States where there is the common carrier pipe line they will not take a quantity of crude oil through that pipe line of less than a minimum tender, usually six or eight thousand barrels, and the railways were trying to introduce that same competitive situation into the commercial pipe lines from Calgary to Regina if there were crude oil put through for this independent plant. The reason the board took away that restriction to twenty-five cars was because—for this reason that the complainants by the expenditure of some money for storage tanks and so on could have complied with the tariff provision, but the board did not think they should be saddled with that expense, and from the record it was a matter of speculation whether the crude oil could not have been moved through the pipe line had it been completed and received by the independent refiner in units of one carload, because there is a pipe line from Turner valley to Calgary to-day, and the independent refiner can get his crude oil at Calgary in units of a carload by purchase from the tank. If that could have been done from the Turner valley field, it was not apparent why it could not be done at Regina.

By Mr. Young:

Q. Why is he allowed to get that from Turner Valley to Calgary?—A. Because he can go to the tank of the Imperial Oil and they will sell him a tank car unit.

Q. Why is that so?—A. Why is that so?

Q. Yes; were they not compelled to do that before they got permission to cross roadways and that sort of thing in the province of Alberta?—A. I do not know, sir.

By Mr. Ross:

Q. Are not freight rates in Canada set up on carload and not on train load lots? Is there any real freight rate set on carload lots?—A. Yes, there are, but it has not been done under direction of the board. There are some short movements of ores, maybe so many cars at a time, or logs hauled out on Vancouver Island—eight or ten cars at a time in order to get the rate, a special rate.

Q. Has the board not taken the view that a freight rate can be set on carload lots or less than carload lots?—A. In any case so far before the board, that has been the view taken.

Mr. HOWDEN: I do not want to take issue with either Mr. Stevens or Dr. Young in these hypothetical cases they have presented to the committee; but they have been drawn out to a considerable length of time, and I do think that it is worth while that this committee should get an opinion from the

Board of Railway Commissioners on what is clearly the principle that is involved. I fancy that the principle in Mr. Stevens' case is whether a shipper is to be deprived of the benefit of geographical advantage. If the Board of Railway Commissioners, or any other board, is supposed to level out all advantages between shippers of all kinds and in all places this is a good time to know it now. Therefore, all rates from similar distances under similar circumstances in the Dominion of Canada will have to be equal. If, on the other hand, one or two men who ship the same sort of commodity over equal distances all rail, one of whom enjoys a geographical advantage of having either water or highway competition—if he is to be deprived, on the one hand, of this geographical competition and if another man who does not enjoy such a rate is to be placed on an equal footing, now is the time to know it. We should know now whether this railway board has decided to grant that benefit. In Dr. Young's case I do not see—

The CHAIRMAN: May I invite your attention to the fact that we have not yet reached the study of the bill clause by clause, but we have called various interested parties to make submissions to this committee, and at the request of certain interested parties it was deemed advisable to obtain information from the Board of Railway Commissioners. At the present stage we are not urging or suggesting this, that or the other thing; we are simply asking questions for information.

Mr. HOWDEN: Well, Mr. Chairman, I take your correction very gracefully, thank you, but I do suggest—

The CHAIRMAN: I am not correcting you. I am simply drawing your attention to that.

Mr. HOWDEN: I do suggest that we are wasting a lot of time on these two questions and apparently getting no farther ahead. If they are in order, let us go on with them; if they are not in order, let us proceed to something else.

The CHAIRMAN: Are there any other questions to be asked of Mr. Campbell?

Mr. GLADSTONE: Mr. Chairman, I think the system of marketing which is involved is a factor that is involved in the distribution of fruit and vegetables. The railways there are not only up against lower transportation charges by truck, but are also up against the distribution of fruit and vegetables from the grower to the consumer. Take the maritime case of potatoes, Their potatoes in the Toronto market would be marketed by the method of transportation of loading as carloads in the maritimes paying the freight rates to Toronto, unloading by the wholesaler and distribution in small lots to the consumer. Their competition would be the trucker who would go to a potato grower at Erie or Hillsburgh, or some potato growing area in Ontario and who would most probobly purchase that truckload of potatoes and sell it, for whatever price he could profitably do so, to a large grocer in Toronto. The same thing happens with cattle. A trucker goes to the farmer and makes an arrangement to take his cattle to the stockyards, and if he cannot resell at a satisfactory price—and oftentimes the distance is too great—he takes the cattle back again to the farmer.

The CHAIRMAN: Mr. Gladstone, may I draw your attention to the fact that the same remark I just made applies here. We are hearing Mr. Campbell. I would not like to cut you off from making this presentation, which is very interesting; but maybe we could go along with Mr. Campbell first. Then there are others who wish to be heard. Mr. Neill and Mr. Reid are here to speak on behalf of interested parties.

Mr. GLADSTONE: I simply bring this up as probably an explanation of the maritime case which has been tabled.

The CHAIRMAN: Thank you. Are there any other questions to be asked of Mr. Campbell? If not, we shall express the thanks of the committee for the information which Mr. Campbell has given us.

Hon. Mr. HOWE: Mr. Guthrie would like to make a general statement on this.

The CHAIRMAN: I will invite the Hon. Mr. Guthrie, chief commissioner of the Board of Railway Commissioners, to address the committee on this question.

Witness retired.

Hon. HUGH GUTHRIE, Chief Commissioner, Board of Railway Commissioners, called.

The WITNESS: Mr. Chairman and gentlemen, the Minister of Transport asked the board if they would express an opinion as to be competence of the board to administer the Act as the board is now constituted. I and my colleagues have gone very carefully over all the provisions in the new Act, and we see no difficulty in the administration, provided we have additional staff with experience in land and water transportation, which we have not now. At the present time, the board's jurisdiction has been confined to railways directly—telephone, telegraph, express and such matters of that kind pertaining to the railway business. But there is nothing in the Act which changes the principles upon which the board has operated for the last thirty-five years, except in regard to clause 35, which is the clause known as the "agreed charges" clause.

Freight tariffs are complicated necessarily; but I might simplify the matter by stating that all tariffs, standard tariffs, have to be submitted to the board for approval. The railway submits a tariff; and if the board thinks that it is a proper tariff, it approves it. A notification goes out throughout the whole country to every station maintained by the railway. That is the normal standard tariff. The Act provides for the railways to go below those tariffs, not above them. They can file special tariffs, which reduce the normal rates. They do not need the approval of the board in regard to reductions of that kind or special tariffs. Then when they are met with competition—it does not say what kind of competition; any competition—they may file competitive tariffs without the approval of the board.

By Mr. Hanson:

Q. Would they not even have to submit it to the board?—A. No, they just file it. Then, from time to time, they may desire to file new special tariffs. If a new special tariff is filed which increases the former special tariff rate, it does not come into force until thirty days, until the public have been notified about it; and the public may protest. If a special tariff decreases the former special tariff, it comes into force automatically in three days. Competitive tariffs may come into force practically at any time. If they want a competitive tariff to operate immediately, then they have to obtain the formal approval of the board. The competition to which railways were open in the early days was water competition But no kind of special competition is mentioned in the Railway Act. The word "competition" is the only word used. To-day we have competition by truck and we have competition by air, or will have in the near future—we have to some extent now. So that there are two new branches of competition to which the railways must apply themselves. In the past, where there has been competition by water, the railways have met that by filing special competitive tariffs between competitive points, not between non-competitive points. The case referred to by Mr. Campbell is a case very much in point. Down on the River St. Lawrence, at one point on the river, there is a lumber industry shipping to Quebec and Montreal. One or two miles away, but not on the river, there is another lumber industry which has no water competition. The railway applies the competitive tariff to the mill on the St.

Lawrence river. Otherwise it would not get any of their business at all unless it could meet the water competition. It does not interfere with or injure the other man who is inland. He never had competition. He always paid the special or normal railway rate. So that at competitive points only the railways make these tariffs operate.

Now, in the present bill, the only change in regard to freight classification or the establishment of freight rates would arise under clause 35 of the bill. That is a new procedure in this country. In England it has been in operation for four or five years; and, according to the information which the board receives, it has operated very satisfactorily. Indeed, it is a matter of comment. I read the other day one of the recent decisions of the English board which corresponds to the railway commission; and the chairman states that in nearly all the applications that come to the board for agreed charges, they do not come from the railways but they come from the shippers. That is just a matter to be noted in passing.

Under the machinery provided in clause 35, there is no radical departure from the provisions of the Railway Act. All the freight rate sections apply as heretofore and will apply in the future. The only alteration is the permission given to the shippers and the railways to agree on a certain rate under certain conditions, and that agreement is open to anyone else under the same or similar conditions.

I heard the exhaustive brief read by the Manufacturers' Association; and I heard in particular some of the objections which they thought were important. One was in regard to notice; that shippers would not know about these things. Well, I think the provisions in regard to notice are about as ample as they are now in regard to freight rates notice. That might be elaborated by a very brief amendment, by putting the identical sections of the Railway Act into that clause. That is an objection that could be cured by a very few lines.

By Mr. Isnor:

Q. Would you outline the procedure of notice as it exists at the present time?—A. I cannot hear you.

Q. I say would you outline the procedure of giving notice as it now exists?—A. Well, the procedure now is that the notice must be given to every railway station—printed and posted up. In addition to that, the notices are actually sent to all important shippers, to all traffic associations throughout Canada, to all boards of trade and chambers of commerce, and to all railway associations—actual notice. But in addition to that, the public is notified by the general notice which appears in every railroad station throughout Canada. That could be adopted here too.

The other objection was that we were getting back, by section 35, into the position we were in before the Railway Act was passed—that discrimination would be permitted under section 35. Well, I and my colleagues have considered that very, very carefully; we have had the assistance of experts in the board; and we cannot see any ground for a fear of that kind. But if any fear does exist, you could put it on all fours with the Railway Act by mentioning again those sections of the Railway Act which provide against discrimination. It was urged by the Manufacturers' Association that, under section 319 of the Railway Act, where discrimination was charged the burden of proving that there was no discrimination was upon the railway company, and that that provision was absent in section 35. Then, include it. Apply section 319 to that section 35, if there is any reason for doing so; but I do not think there is. I think you will find that the working out of section 35 on the agreed charges is exactly on all fours with the working out of the question of discrimination under section 319 of the Railway Act. When discrimination is charged, it is the duty of the railway to show that there is no discrimination. That is the burden of proof.

That is, in law, called the onus. When the railway has succeeded in showing that, it is then open to the shipper to bring his side of the question to the board and show that, notwithstanding what the railway said, there is discrimination. In every case the board hears both sides; and I am satisfied that I am correct in saying that the decisions of the board have been fairly acceptable to the public, because there have been very, very few appeals, and very, very few complaints.

It was urged by the Manufacturers' Association that the machinery would be cumbersome, that shippers would be at a disadvantage in coming to the board. Complaints in regard to freight charges and in regard to freight classification are very, very frequent. They arise daily. They do not come as formal applications. They come in the form of a letter or telegram from the shipper. If the matter is urgent, it is a telegram. The telegram is at once submitted by the board to the railways. They are asked to make their answer. If it is urgent, they make it by telegraph. Then the board comes to a conclusion and decides the matter; and in nearly 90 per cent of these complaints, there is no hearing by the board—no formal hearing. Since I have been on the board—three years next August—I think there have only been six freight cases heard by the board. They come every day, but we are able to adjust them; and so far as I am aware, we must adjust them to the satisfaction of the shipper as well as the railway company, because the complaint dies. There is no difficulty in the machinery. It is a very simple thing to bring a complaint to the attention of the board; and the board, I think you will find, acts very promptly in regard to it.

Another objection which at the time struck me as being rather forcible was that of the shipping men—particularly as stated by Mr. Enderby on behalf of Canada Steamships—which was that, under the agreed charges section, the railways might be in a position to make a charge averaging for the whole twelve-month period, whereas the water shipper would be bound up for six months of the year by winter conditions in this country, and that in some way the railway might operate that circumstance to its own advantage. On thinking the matter over, we concluded that it would not be difficult to remedy that, and make it clear that the railways could not take advantage of a situation of that kind; and I drew an amendment or had an amendment drawn to meet that situation. It has not been submitted yet to the railways nor to the shipping men; but I am inclined to think that they will both agree with it, and it will overcome that difficulty.

Now, generally speaking, there is no difficulty so far as administration goes, in the present proposal. Nor could I see anything but benefit as the outcome of the present effort. It will take a new bill a little time to be ironed out, and to get the public accustomed to it; and the board will have to have some expert opinion, which it does not have now, in regard to water and air shipments. But apart from this, I think that the bill is workable without any difficulty of any serious kind, and I believe that the apprehension of some of the shippers and some of those engaged in transportation are not well founded. But if they are, they can be cured by a very simple amendment to the present bill. I think that is all I have to state.

By Mr. MacNicol:

Q. Mr. Guthrie, before you leave the stand, may I ask you a question in reference to what you said a moment ago?—A. Yes.

Q. It is in connection with complaint of the steamship companies, which was that if the rate were established on the railway to compete with their steamship company rate, which would be a rate in the summertime, the railways, as I understood it—the inference I got from what you said was that an amendment to the Act would prevent the railways from taking advantage

of raising their rates in the wintertime; but in the wintertime it is much more costly to ship on the railways than in the summertime.—A. The agreed rate would apply as for the whole twelve-month period.

Q. What is that?—A. The agreed rate would likely apply on the whole twelve-month period.

Q. On the basis of the low rate for the summertime?—A. No; on some basis to be agreed on between the railway and the shipper. They would have to make an agreement; and that agreement is open to any other shipper. That becomes the rate.

Q. Well, the steamship shipper may not be able to give a better rate in the summertime?—A. Well, on the agreed charge, I suppose the rate would apply for the whole period for which it was paid. I have no doubt regard would have to be had, when that rate was agreed upon, to the water rates, which are very much lower than the railway rates.

Mr. McIvor: The rate might be different in the summer from what it would be in the winter.

By Mr. MacNicol:

Q. Which would mean that the railway would have to make a rate for the whole year much lower than what it otherwise would?—A. I think that is what it would be, for the whole year. Under the Act it says "or part of the year". But I think the rate would be made for a year. The amendment which we proposed but which has not yet been submitted to the railways or to the water shippers, reads as follows:—

> An agreed charge, under this Act, shall not be made by a rail carrier which will deprive any other rail carrier, under this Act, of the right to participate in the carriage of traffic handled under such agreed charge between competitive points, and regulated water carriers, having a port-to-port service between the same points, shall have the right to participate in such traffic, at such differential, under said agreed charge, as the board may direct.

That leaves the board to settle what the differential will be as between water and rail, in case they do not agree.

By Mr. Bertrand:

Q. Where would this amendment go?—A. Anywhere after section 35.

Q. In addition to it?—A. I have not considered that; somewhere after that. Then there is another clause, which is just the reverse, as follows:—

> An agreed charge, under this Act, shall not be made by a water carrier which will deprive any other water carrier, under this Act, of the right to participate in the carriage of traffic handled under such agreed charge between competitive points, and rail carriers between the same points shall have the right to participate in such traffic, at such differential over the said agreed charge, as the board may direct.

Mr. Howden: In other words, there is no discrimination.

The Witness: It may be that the water carriers and rail men will agree to something of that kind; but it has not been submitted to them yet.

Mr. Howden: It is all right by me.

The Chairman: I think I am speaking the mind of the committee in thanking the chief commissioner of the Board of Railway Commissioners for the valuable information which he has given to the committee.

Now, gentlemen, there are two or three members of parliament who, on behalf of interested parties in their particular constituencies, have asked to be heard. I would invite Mr. Neill to address the committee now. Will you come up here, Mr. Neill?

A. W. NEILL (Comox-Alberni), called.

The WITNESS: Mr. Chairman, Hon. Mr. Howe, Mrs. Black and gentlemen: I understood that I was not to be called until Thursday. Consequently, my data is not in as concise a form as it should be. Perhaps that will tend to brevity. The subject that I want to bring before you has at least the virtue of novelty. You have not heard it before. It is a discussion as to whether this bill should not include the control of itineraries and rates on passenger ships operating in the coastal waters of British Columbia. I think I can best explain it by reading a statement that I presented to the clerk, by adding any comments that may be necessary as I go along, and answering any questions. But before I do so, I crave the indulgence of the committee for permission to deviate to another subject that is not on my agenda. It would enable me to fulfil an obligation to a constituent, or several of them, if I may follow, just for a couple of minutes, a matter that has been before you, I know, already—the matter of agreed charges.

Like other members from British Columbia, I have no doubt, I have received a number of letters from shippers—not necessarily shipping men, but shippers—complaining about that section of the act dealing with what is known as agreed charges. It more particularly comes home to me in connection with the people in the district I represent with regard to the shipping of lumber. I know that almost everything that can be said has been well said by one party and combated by other people before this committee already; and I do not propose to repeat what would only be a bad repetition of a better argument. However, there is one phase which I just want to mention in my presentation in regard to the shipping interests, —that is the lumber shipping interests,—in my district, especially. While I have heard the question answered in previous debates, I do not think it was adequately answered. Most of the members from British Columbia I have no doubt have received a number of letters from the shippers, not necessarily shipping men, but shippers, complaining about the section of the Act which deals with what is known as the agreed charges. It more particularly comes home to me in connection with the people in the district I represent who are interested in the shipping of lumber. Now, I know that practically everything has been said about that which can be said about it, both in support of it and against it; however, I would be failing in my duty if I did not submit the representations which I have been asked to make.

The shippers of lumber in my district are very much interested in this measure. It is their practice to ship lumber by vessels which make use of the Panama canal route. There seems to be some idea, I do not know how it arose, that there is only one ship operating on this route which they use. I think the service given is twice a month, or something like that; and the service is made use of to a considerable extent in the shipping of lumber. In that way they get an outlet for their lumber of a certain character both to the east coast of the United States and to Canada which they otherwise would not have; and they have this idea—as I say, I have not seen it in the bill—but it was alleged in the committee the other day, or it was stated, that there would be no need to have any interference with shipping interests out there because the tendency would be to lower rates, and anything that lowered rates to the people shipping lumber would be all to the good. It was suggested that this agreed rate would spell the end of the present facilities and that the railway companies would have the power of making an agreed rate so low that the shipping people could not compete with it and presently they would go out of business; and this agreed rate would only operate I presume for a year. As you know, once a shipping company goes out of business it goes out for keeps, because you cannot pick it up again, and if that were to happen the lumber shipping people are afraid that they would be subjected to higher rates to be imposed by the railway companies. That is the point I

have been asked to make, and with respect to which so far I have not been able to get an adequate answer; but, I will leave that for your consideration.

Now, as regards this other matter about which I desire to speak I will just read to you the statement which I addressed to the clerk: Re bill 31—I was told by Mr. Howe in the debate on the second reading of bill 31 to submit to your committee the case for including in the bill the control of transport of goods and passengers in ships on the coastal waters of Canada. You will note I include in that passenger ships.

Part 2 of the present bill, section 10, provided for the inclusion of such services, but it was taken out of it by section 12, sub-section 5, both as regards the Atlantic and the Pacific.

Bill B of the Senate of last year, on which the present bill is largely founded, when first introduced contained no such provision excluding the coastal waters, but it was amended to that effect, apparently, by the standing committee of the Senate, by sub-section 5 of section 8. The change was apparently made with the idea of making the bill acceptable to the Senate, but this did not prove to be the case.

I submit that it is highly desirable that such control should be exercised. The need for it is so apparent, in British Columbia at least, that in 1935 I introduced a bill to amend the Railway Act to that effect, which bill was defeated in the House of Commons. The debate will be found in Hansard of February 12, 1935, and later on in Hansard of February 22. There is a precedent of long standing for this provisions because some thirty years ago the then section 7 of the Railway Act provided that the Railway Act should apply to traffc carried by sea or inland waters between any ports or places in Canada. There was, however, a provision attached to it that it only applied to boats owned or chartered by a railway company.

Conditions have changed since then, and it seems unreasonable that such a provision, which is still in the Railway Act, should apply to ships which happen to be owned by a railway company but not to a competitive shipping company, which does not happen to be owned by a railway.

All the arguments that were used in the past to justify the control by the railway board over railway matters apply with exactly equal force to the need for control over freight and passengers and routes in coastal waters. It will be alleged that we have competition on the Pacific, and that will cure itself, but the competition is more apparent than real. Certain boats go into certain ports, and they keep out of ports served by their rival companies. There is evidently some kind of a gentlemen's agreement.

I can give instances of much higher rates being charged over a given route than to another port nearly twice as far away. I know a case where the charge on a 3,000 pound car with one company would be $15 while the opposition line carries the same car 8 miles farther for $5. That is a fact.

As an illustration of the feeling out there I might say that when I introduced the bill I got a letter from a shipping company which has large connections in my district and who might very possibly exercise a considerable influence on a candidate in an election, and they told me bluntly if I proceeded with that bill they would resent it. I think that alone shows that there is some need for exercising control.

It is not suggested that it should apply to scows, and launches and tugs towing booms, etc., but merely to the larger vessels carrying passengers and freight on a regular schedule, and the board would exercise the same beneficial jurisdiction over their rates and tolls and itineraries as they do in railway matters, and no one would now contend that the railway board is unjust, either to the shippers or to the railways, or should be done away with. Itineraries should be reasonably arranged so as to give service to districts where it is needed. I recall the case of a service of a certain line which touches at a number of ports,

and all these small places, and the captain of one of these boats was interested in one of these seaside resorts. I think that applies in a number of instances. I recall another captain who was interested in another private place, but it is only natural that in cases like that the vessel operator, the captain, would so arrange his itinerary as to call at the seaside resort in which he was interested and to direct traffic and business toward that seaside resort. However, that is not confined to just that one company, that is human nature.

The necessary provision might be inserted by limiting it to vessels over a certain tonnage, whatever is deemed reasonable, but I submit the general principle should prevail that, if it is right for the railway board to regulate freight and passengers on a railroad, and if it is right for them to exercise the same jurisdiction on ships owned on the Pacific (in this case it happens to be the C.P.R.) it should be equally proper to apply the same control over other coastal vessels not owned by a railway company.

There was some objection taken to my bill two or three years ago that it was too compelling; that I had worded it so that it would apply to ships going from the Pacific to the Atlantic. I did not mean that, and I agreed to bringing in an amendment on second reading, but it was defeated on second reading. Also it was suggested that it was to be so exclusive and so comprehensive that it would apply to any little launch going out to tow in a boom of logs. I may say that I had no such intention whatever. All I suggested was that the jurisdiction be the same as that applied to railway lines. If a railway company wants to shut up a station and the people object—as they always do—then the railway company go to the board and give the reasons as to why that station should be closed, with the result that the matter would be decided publicly. If a similar provision were made under the present bill everybody interested would be adequately protected; the interests of the public would be protected, the shipping companies would also be protected, and all parties in interest could be heard if there was objection taken. If people served by a route were affected they could then apply to the railway board and get a decision, possibly in their favour.

Now, that almost seems so palpable that it does not need amplification. If any of you want to see anything further about it if you will look up Hansard of March 21st you will see that what I said at that time is along the same lines as what I am saying to-day.

If there is any question which any member of the committee would like to ask I shall be glad to answer it.

The CHAIRMAN: Does any member of the committee wish to ask any questions of Mr. Neill? If not, we shall thank Mr. Neill for his submission.

By Mr. Howden:

Q. The substance of your submission is that coasting vessels along the Pacific coast should be included among those carriers coming under the provisions of this bill?—A. Yes.

The Witness retired.

The CHAIRMAN: We will now hear from Mr. Reid.

THOMAS REID, M.P. (New Westminster) called.

The WITNESS: Mr. Chairman and gentlemen, it is not going to be as bad as some of you think. I have prepared a brief for your convenience. I did not come here with fully prepared information and data to enable me adequately to present my case before you this morning because I had not expected to appear before you until Thursday. With your permission, I will read my brief, and afterwards I shall be ready to answer any questions which any of

the members may desire to ask. Perhaps I could proceed with the reading of my brief while copies are being distributed.

In making thes erepresentations to the Committee on Railways, Canals and Telegraph Lines, in connection with Bill No. 31, better known as the Transport Bill, I want at the outset to say to the members of the committee, including the Hon. Minister of Transport, that my reasons for appearing before the committee are twofold. Namely: first to voice the representations of business interests and the Board of Trade in the Constituency of New Westminster, who are vitally interested in this proposed measure, and who feel that their interests, and that of others in British Columbia will be materially affected by the passage of such a bill in its present form.

The other reason for my appearing before you is to make certain recommendations, which I feel should be made now, and whilst the bill is before the committee for consideration and possible amendment.

Dealing with the latter first, I would like to bring to the attention of the committee the difficulties, which I believe will arise when adverse decisions are made on any appeals to the new Board of Transport Commissioners.

Appeals

Under the present Railway Act provision is made therein for appeals from the decisions of the Board of Railway Commissioners. If the question is one affecting that of law, appeals come under the jurisdiction of the Supreme Court. When the question is one of fact, the appeal then goes to the Governor in Council, which as is known, is the Cabinet—see Section 52, Chapter 170, Railways' Act. The question of appeals from any decisions likely to be handed down by the new Board of Transport is a most important one.

If the Board of Transport Commissioners are going to have all the powers of the Board of Railway Commissioners, as set out in Section 4 Part 1, and the matter of appeals from any decisions made are to remain the same as at present in the Railway Act, then some body other than the Governor in Council should be charged with the responsibility of hearing and deciding those appeals, which are likely to be made. A study of the long history of appeals which have been made to the Governor in Council will reveal the fact, that due to precedent, and of course other considerations as well, no reversal of decisions have been made at any time by the Cabinet or Governor in Council.

Now is the time to consider a change in this part of the Act, and bring it up to date and more in line with changed conditions.

Now is the proper time to see to it, that a practical Appeal Court or Board be set up, one that will really function so as properly to safeguard the rights of any of those affected by adverse decisions rendered by the Board of Transport Commissioners. The Cabinet Ministers have not the necessary time to devote to appeals made to the Privy Council and the fact that they are adverse to granting a favourable or in fact any decision against the rulings of the Board of Railway Commissioners makes the right to appeal of little practical value. This point should be obvious to every member of the committee and need not be further elaborated.

Transport by Water

Coming now to *Part 2* of the Bill, which deals with Transport by water. We on the Pacific Coast of British Columbia believe, that the transportation or shipping of goods by water from British Columbia to Eastern Atlantic Canadian point will be curtailed if not eliminated, by this part of the Bill. It should be pointed out that British Columbia more than perhaps any other province is dependent on world markets or markets outside that of its own province for the sale of its products, hence, the necessity of obtaining fairly reasonable transportation costs, so as to enable her successfully to compete

in those outside markets. The opening up of the Panama Canal opened up new trade routes for the people of British Columbia and has been the means to quite an extent of the growth and development of that province. It is I believe safe to say that shippers, especially that of lumber, have been able at times to secure orders for lumber and in some instances of other goods in Eastern Cities of Canada, due to the fact that they were able to send shipments by water through the Panama Canal at a freight cost which enabled them to compete with other competitors. It is doubtful if these orders would have been secured, but for this fact. If this Bill passes in its present form, those desiring to ship such bulky goods as lumber, and wishing to take advantage of the Panama canal water route would find themselves faced with securing or chartering a ship duly licensed by the Board of Transport Commissioners. Just how difficult it might be for the owner of a ship under this Act to obtain a licence allowing him to carry lumber or goods from British Columbia ports to eastern cities on the Atlantic seaboard will on examination of the sections of the Bill dealing with licences, be, I believe, apparent to all.

Section 5, Para. (1) reads: " Before any application for a licence is granted by the Minister for the transport of goods and/or passengers under the provisions of this Act, the Board shall determine whether public convenience and necessity require such transport, and in so determining the Board may take into consideration."

Then in determining whether such a licence should be granted the Board has certain considerations to determine—First—Objections by others who are already providing transportation.

Para. (*a*) to continue states " any objection to the application which may be made by any person or persons who are already providing transport facilities, whether by rail, water or air, on the routes or between the places which the applicant intends to serve on the ground that suitable facilities are or, if the licence were issued, would be in excess of requirements, or on the ground that any of the conditions of any other transport licence held by the applicant have not been complied with;"

Take our position in British Columbia. The two railway Companies could easily argue that as there were two railroads running out of New Westminster or Vancouver they can easily take care of all the freight traffic there was from the Pacific Coast of British Columbia and consequently could argue there was no need for any shipping company or any one else for that matter to be granted a transport licence allowing them to commence transport operations. No question would arise at the time as to whether there was a possible market for lumber, etc., in eastern Atlantic cities providing the lumber shippers or others could take advantage of a favourable Panama water route. The question and argument used would be as that circumscribed by the Sections I have just read viz:—First—Whether suitable transportation facilities were already provided and:—

> (*b*) whether or not the issue of such licence would tend to develop the complementary rather than the competitive functions of the different forms of transport, if any, involved in such objections;
>
> (*c*) the general effect on other transport services and any public interest which may be affected by the issue of such licence;
>
> (*d*) the quality and permanence of the service to be offered by the applicant and his financial responsibility, including adequate provision for the protection of passengers, shippers and the general public by means of insurance.
>
> To continue, what chance would a ship owner have say two years hence of obtaining a licence to carry goods by water from British Columbia to other provinces, if he is to be governed by Section 2 of Part 1 of the Act.

[Thomas Reid, M.P.]

Section (2) If evidence is offered to prove,—

(*a*) that during the period of twelve months next preceding the coming into force of the relevant part of this Act on, in or in respect of the sea or inland waters of Canada, or the route between specified points or places in Canada or between specified points or places in Canada and specified points or places outside of Canada, or the part of Canada to which the application for a licence relates, the applicant was bona fide engaged in the business of transport.

If this means that before any license is granted, it must be shown that the applicant had been in the business of transport by air or by sea for a period of 12 months prior to the coming into force of the Act, then I say that it will debar ship owners in the future desiring to haul goods by air or water, and place the present transporters, which is principally the railways, in complete control of the transportation business. In other words, no licences for any future water transport which may arise.

This, if correct, is a rather serious matter, for it would then give the railway companies in British Columbia a virtual monopoly on transportation and nullifies or would nullify any benefits which British Columbia receives from the Panama Canal.

I wonder if the Committee fully realizes just what this will mean to the lumber shippers of British Columbia and the further handicap it will place them in when desirous of taking advantage of eastern markets with a water transport by way of the Panama Canal.

If drastic restrictions are placed against the use of water borne transport from British Columbia, not only will they not be able to take advantage of the Panama Canal but will be further faced with competition from United States competitors in Washington, Portland and Oregon, who can ship lumber to eastern Canadian points via the Panama Canal without any restrictions whatever either as to tariff or licensing of ships. The competition from American shippers is difficult enough as it is, for at the present time they have a distinct advantage over the shippers of lumber from British Columbia, who must perforce when shipping lumber or even other goods by water transport from British Columbia, use Canadian or British ships, whereas the United States competitors can take advantage of any odd or old tramp steamer that comes along. Section 663 of the Canada Shipping Act reads (and here I have a copy with me):—

(1) No goods shall be transported by water, or by land and water, from one place in Canada to another place in Canada, either directly or by way of a foreign port, or for any part of the transportation in any ship other than a British ship.

And, let me say right here, that I noticed that in the evidence given by Mr. Campbell in answer to questions by Mr. Howden that he places a different interpretation on that. Evidently Mr. Campbell overlooked the fact that under the Shipping Act shippers in Canada must use British ships. I quote his remarks from page 61 of the report of the proceedings of this committee on Thursday, May 5th:—

By Mr. Howden:

Q. I just want to ask a question: There is nothing in the provisions of this bill that provides for regulation or control of highway truck traffic is there?—A. No sir, not directly.

Q. And similarly, there is nothing in the provisions of this bill that will have any effect on the inter-coastal water traffic, such as you mentioned, between Vancouver and Montreal, is there?—A. I would not say that it would not have an influence, sir.

Q. It would have no control over them?—A. No control? Oh yes. I am quite wrong. I did not apprehend your question. Rates on intercoastal movements; that is, on movements from Vancouver to Montreal or vice versa are to be regulated under—

Q. Let us suppose it is a ship of foreign registry which is moving between Vancouver and Montreal; you are not in a position to control rates with them, are you?—A. Oh, no.

Q. And that means that you must meet this competition the same as you meet highway competition, as best you can. You cannot control or regulate highway competition, therefore you must meet it somehow or other—isn't that the situation?—A. Yes.

Q. And the same thing applies to shipments between Vancouver and Montreal by boat?—A. At the present time, yes.

Q. As at present. Is there anything in the bill that will control that water rate from Vancouver to Montreal?—A. They will be required to publish the detail of their tariffs, but they will still be able to put into effect any rate they see fit.

Now, I say Mr. Chairman, that according to the evidence given by Mr. Campbell one would conclude that in British Columbia or in any other part of Canada a shipper could use any ships, whether foreign or otherwise, for the transportation of goods. That, however, is not the case. Under the Canada Shipping Act, as I have just quoted, no shipper in Canada can use any ship unless it is a British ship; whereas the shippers to the south of us in Washington and Oregon who are in the business and are shipping lumber are free to use any foreign ship or any ship they like.

By Mr. Howden:

Q. That regulation was intended for lake shipping, wasn't it?—A. I think so.

Hon. Mr. HOWE: But they must pay a very stiff duty when they ship that way.

The WITNESS: There is no duty on rough lumber coming into Canada. I am glad the minister mentioned that. There is no duty, sir. They can land that lumber at Montreal or any eastern Atlantic point without duty; and that is the reason why we are faced with very stiff competition in that respect.

These vessels calling at United States ports often take on cargo at low rates, just as, or in place of ballast.

It should be pointed out further that many lumber orders for Montreal and Quebec have been made possible due to the fact that British Columbia lumber interests were able to take advantage of chartering for a full ship's cargo at one and the same time, fifty per cent of which was destined for United States Atlantic ports and the balance for eastern Atlantic Canadian ports.

Bear in mind, the railway companies would not get that business anyway. All it will mean, will be the loss of business or orders by the various lumber manufacturers in British Columbia, who will not on account of the higher railway rates secure or get into that market.

The committee is asked to note that practically no fully manufactured articles move from west to east consequently, under the rigid railway regulations it is impossible for shippers to secure shipment to eastern Canada of L.C. Lot quantities at less than L.C.L. rates which of course are prohibitive.—See evidence of Mohawk Lumber Company.

Now, in support of that contention I wish to submit to the committee a letter which I have received from a manufacturer in the city of New Westminster. He says:—

There are practically no manufactured articles moving from west to east.

This is from the Mohawk Handle Company Limited who put out about 4,000,000 broom handles each year. He continues:—

Consequently, under the rigid railway regulations, it is impossible to secure shipment to eastern Canada of L.C.L. quantities at less than L.C.L. rates, which are prohibitive.

In our own case, we were hampered greatly in the first few years of our operation because we could only ship carload quantities of 70,000 handles. Very few buyers are willing to place so large an order for a new product of which they know nothing and, in many cases so large an order would be altogether more than the customers' credit rating would entitle him to. Although cars of lumber were leaving from our siding every week, the railway companies refused to let us mix handles with lumber or in fact with any other commodity not in the same class rate.

In consequence, we turned to export business where there was no such limitation. At the same time, against considerable difficulties because of the additional rail rate from Montreal to Ontario points, we managed to introduce our product in Ontario by shipping L.C.L. quantities through the Panama during the summer months. We are now doing a satisfactory volume of business in Eastern Canada in carload quantities but, had we depended entirely upon the railroads for shipment of our product, we should not be in business to-day.

That is the situation in which one New Westminster manufacturer finds himself to-day, and that is his view of it.

I have one other letter here which I would like to read. I will only read a part of it, that part which relates to intercoastal rates. This is from McLennan, McFeely & Prior Limited of Vancouver, and as well of New Westminster. They state:—

May we now proceed to deal with the proposal whereby the Intercoastal Steamship operation between Atlantic and Pacific ports should be placed under the jurisdiction of a commission to control the rates.

No greater service has been rendered the Canadian Manufacturers on the one hand, or the shippers of British Columbia's natural products to the Atlantic seaboard on the other, than the Steamship Line of the "Canadian Transport Company," operated under conditions which have developed increased Canadian Intercoastal trade.

The Company referred to have, in our own case, made rates from the Atlantic seaboard to this port on Canadian commodities, and offered rates which have in the past, diverted a large tonnage from European sources to Canadian Manufacturers.

In our own case we estimate that it has enabled us to buy a large tonnage of Canadian products yearly, which formerly went to Europe, and which could never bear the heavy overland railway rates which would be necessary.

Any interference with the seaboard rates based on what the traffic will bear, would immediately mitigate against the manufacturers of the Maritimes, Quebec, and Ontario, and the importers and shippers of British Columbia.

It has also served the purpose by reason of the new development of westward movement of eastern Canadian products, to make a line of steamers available to carry the products of British Columbia to Atlantic seaboard markets, at reasonable rates of freight.

In our opinion the restriction of freedom which has meant so much to the development of new and added trade between British Columbia

and the eastern provinces of Canada, would be a retrograde movement, and harmful to a degree.

By Mr. Howden:

Q. Do these people apprehend any interference with the liberties or the enjoyment of rates that they have been enjoying previous to this year?—A. They do. They feel that it places restrictions on the future development of shipping facilities from British Columbia ports.

Mr. HOWDEN: There is nothing in the bill that suggests that.

By Mr. Mutch:

Q. There is no serious fear that there would be a curtailment of the present facilities, but rather that no new business could be established?—A. There is fear about curtailment in this respect, that a new business coming before the Board of Transport for a licence would have to show that it had been in business for 12 months previous to the passing of the Act, and unless they could show that it would be difficult for them to obtain a licence because the railway companies in protesting could come forward and say you do not require a steamship service for such points because we have facilities adequate for the purpose of handling your business.

RATES TO BE PUBLISHED

It may be possible on the Great Lakes or on the St. Lawrence river where there are regular lines of steamers to have regular schedules or rates, etc., published, but the situation on the Pacific is an entirely different one from that of the shipping situation on the Great Lakes or the St. Lawrence, where perhaps to a greater degree than anywhere else in Canada, the railways are faced with a severe water freight competition, and which has been very disturbing to them for some time back.

The Panama canal whilst it has been of inestimable benefit to the people of British Columbia has nevertheless been also of inestimable benefit to the two railway companies themselves. The railway companies have not been faced with serious eastbound water competition from the Pacific coast of British Columbia nor any serious loss of freight due to water transport operating from British Columbia Pacific ports for most if not all of the movement of lumber or other articles which have moved to eastern Canada might not have been moved at all, if there had been no favourable trade ships offering or available, by way of the Panama canal.

It should not be forgotten that Canada has not contributed towards the development of the Panama canal, whilst on the other hand large sums of money have been expended towards the development of the St. Lawrence and Great Lakes water routes for shipping, which transport routes are free of tolls, whereas ships using the Panama canal route have to pay tolls of 75 cents to one dollar per gross ton amounting to anything from 5,000 to 10,000 dollars per ship, according to the size of the vessel.

By Mr. Heaps:

Q. You missed one little item in this last paragraph. You have failed to mention the amount of money which the government has spent in developing the railways.—A. Yes. That very point hinges on the amount of money they spent in the Great Lakes, because it has been contended, and I think with a great deal of fairness, that having spent over $100,000,000 in the development of the St. Lawrence and Great Lakes, it is hardly fair to subsidize the shipping on these lakes by allowing them to operate free of charge, whereas the railway companies have had to buy their property and keep their lines running. I

think that argument is very pertinent when you are dealing and comparing the Great Lakes situation, but not when comparing British Columbia with the Panama canal route.

"Part V" Agreed Charges

On the question of agreed charges I understand the committee have already had quite a number of representations on this matter, and so it will not be necessary for me to take up as much time of the committee as might otherwise be the case. Suffice it, therefore, at the moment to say that British Columbia shippers and manufacturers generally are opposed to this, and in this I am expressing the views of the Vancouver Board of Trade, Canadian Manufacturers' Association, New Westminster lumber interests and other business concerns of New Westminster.

Particular objection is taken to this clause as it is felt that the possibility does exist through the provisions of such a clause of large shippers or importers of goods being placed in a preferred class as against smaller or individual shippers or importers of the same class of goods. It may be argued, and no doubt has been, that in section 5 any shipper has the right to appeal if he considers his business unjustly discriminated against. Unless, however, it is more clearly defined, difficulty will arise over the interpretation of this clause. Part of clause 5 on page 13, which reads: "(being the same goods as or similar goods to and being offered for carriage under substantially similar circumstances and conditions as the goods to which the agreed charge relates)."

May I point out I am not reading the full section of the Act. You have a copy of the bill before you and I think you can follow me very well. I give the page and the section.

Just what is meant by "substantially similar circumstances and conditions" will perhaps not be interpreted by the Board of Transport Commissioners the same as that in the minds of many of the members of the committee.

For instance: The Railway Act (sections 314 to 325) contains many clauses dealing with unjust discrimination and as between shippers, localities, and running all the way through these sections are the words "under substantially similar circumstances and conditions," but with a long history of judicial decisions, but not practical decisions on the records of the Board of Railway Commissioners, what chance is the small shipper going to have in the light of past interpretations, and which past interpretations the board use in all appeals coming before them.

Further:—Unjust discriminations as interpreted by the Board of Railway Commissioners has no reference to different localities.

The wording of section 29 is similar to section 320 of the Railway Act. Section 29 reads:—

> In deciding whether a lower toll, or difference in treatment, does or does not amount to an undue preference or an unjust discrimination, the board may consider whether such lower toll, or difference in treatment, is necessary for the purpose of securing, in the interest of the public, the traffic in respect of which it is made, and whether such object cannot be attained without unduly reducing the higher tolls.

Here it should be made clear that it is in the national interests that is meant and as suggested in the Duncan Commission report of 1926. See page 25 of that report, which deals with just this very section and reads:—

> At present the work of the railway commission is circumscribed within the two considerations, viz:—
>
> (*a*) Reasonable compensation to the carrying company, and
> (*b*) No unfair preference or unjust discrimination as between traders.

Section 320 of the Railway Act seems to give the wider powers that we have in mind to the railway commission, so far as the question of undue preference or unjust discrimination may be involved.

Let me say I am still quoting from the Duncan report.

320. In deciding whether a lower toll, or difference in treatment, does or does not amount to an undue preference or an unjust discrimination, the board may consider whether such lower toll, or difference in treatment is necessary for the purpose of securing, in the interests of the public the traffic in respect of which it is made, and whether such object cannot be attained without unduly reducing the higher toll.

Still quoting from it:—

Even there we feel that, if the intention was to have larger national interests in mind, the section should be made clearer, and instead of the words "in the interests of the public" (which might be interpreted as in the interests of the "consuming public") the words would clearly state that it is national interests (both "producing" and "consuming") that are in mind. If this was not the original intention of the section, we suggest it is the intention which should now be imported into it. We feel further that a similar extension of authority should be imparted to the railway board in regard to the question of reasonable compensation. It would then be competent for the railway board to make a survey of just the very character that the president of the Canadian National Railways testified as being part of his function (as the business head of a railway); and if from public policy they felt that an experimental rate should be conceded, they should be free to constitute the rate, even although it might not, at the time, or of itself, give reasonable compensation to the railway company.

Mr. HANSON: They have that power now. They can lower the rates but they cannot raise them.

The WITNESS: The wording of these sections should be more clearly and definitely defined, so as to allow wider interpretations of the clauses if necessary. Another point which I believe should be taken note of, and that is:— How is the Board of Transport Commissioners when deciding what are or might be just or unjust freight rates, going to be able to fairly decide as between the various modes of transportation rates when it is not possible to tell what the actual costs of such mode of transportation really are for as it is well known, railway rates are not based on the principle of actual costs of transportation but generally speaking are on the principle of "what the particular traffic will bear."

The Board of Railway Commissioners were directed by Order in Council P.C. 886 of June, 1929, to make a thorough investigation into the maximum costs of transportation, but never carried out that order. Part of the Order in Council states:—

The committee are further of the opinion that as the production and export of grain and flour forms one of the chief assets of the dominion, and in order to encourage the further development of the great grain growing provinces of the west, on which development the future of Canada in large measure depends, it is desirable that the maximum cost of the transportation of these products should be determined and known, and therefore are of opinion that the maximum established for rates on grain and flour, as at present in force under the Crow's Nest Pass agreement, should not be exceeded.

The committee therefore advise that the board be directed to make a thorough investigation of the rate structure of railways and railway

companies subject to the jurisdiction of parliament, with a view to the establishment of a fair and reasonable rate structure, which will, under substantially similar circumstances and conditions, be equal in its application to all persons and localities, so as to permit of the freest possible interchange of commodities between the various provinces and territories of the Dominion and the expansion of its trade, both foreign and domestic, having due regard to the needs of its agricultural and other basic industries, and in particular to—

and then it proceeds to designate both the eastern and western ports of Canada with the developing of trade through the Panama canal.

I ask any hon. member of the committee to read these words over carefully and then ask himself in the light of past decisions of the Board of Railway Commissioners, if greater care should not now be taken in the wording and framing of these particular sections of the Transport Bill, so that the new Board of Transport Commissioners, who in effect will be the Board of Railway Commissioners, will be able to place far wider interpretations on just these various but important sections, and which in conclusion it was expected by parliament they would.

The CHAIRMAN: Are there any questions to put to Mr. Reid by members of the committee? If there are no questions we shall thank Mr. Reid for his very able and interesting submission.

By Mr. Howden:

Q. Before Mr. Reid leaves the stand I should like to establish the fact that his chief objection to this bill is that suggested by Mr. Mutch, that future water transport companies will not be able to obtain licences because they are discriminated against by the provisions of the bill. Is that your chief objection? —A. That is the way I see it, doctor, and then, of course, in regard to the unjust discrimination clause, the court of appeal and the Privy Council. I think these are the three chief arguments that I have endeavoured to develop.

By Mr. Young:

Q. What sort of court of appeal would you suggest?—A. Well, I am not here to suggest a court of appeal; but I should like to see some body set up other than the Privy Council, because, having had experience in going before the Privy Council and the Board of Railway Commissioners as well, I speak whereof I know, at least from experience. I think I am correct when I say the cabinet are very reluctant to reverse any decision of the Board of Railway Commissioners. The hon. Minister who is here, and I know Mr. Stevens can tell you if such is the case. They make it plain to you. They say "we do not know this question; we do not like to go into it." I shall tell the committee a straight statement of fact. They feel that if they reverse one decision of the Board of Railway Commissioners every appeal that is turned down by the board would come before them. I think that is fair. They fear some political influences might be brought to bear in the cabinet to reverse the decisions of the Board of Railway Commissioners.

Hon. Mr. HOWE: Very often the cases that come before us do not indicate strong grounds for revision.

Mr. YOUNG: It is much easier to suggest a court of appeal than name one.

The CHAIRMAN: There is only one court to which an appeal should be taken. It should be the Supreme Court of Canada.

Mr. HEAPS: He wants to set up another one.

The WITNESS: I am just suggesting another one. I pointed out that on questions of law the Railway Act says you may go to the Supreme Court of

Canada, but on a question of fact you do not go to the Supreme Court of Canada; you go to the Privy Council, and I am suggesting the Privy Council is not the proper body. If the committee in its wisdom says that it should be the Supreme Court, all to the good, but I am not so sure of that.

By Mr. Heaps:

Q. Do you suggest some other body than the Privy Council?—A. Yes.

Q. I should like to have you, Mr. Reid, tell us what other body you really have in mind?

Mr. YOUNG: That is what I asked him.

The WITNESS: There are two bodies right now in the Act. In the Act as amended there are two bodies. First, there is the Supreme Court of Canada and secondly, the Privy Council. I am not suggesting a third body. I am suggesting a body other than the Privy Council to hear questions of fact.

By Mr. Young:

Q. You would prefer the Supreme Court of Canada?—A. I am not sure whether I would prefer the Supreme Court of Canada or not. I am not going to venture an opinion on that.

Q. Do you think, Mr. Reid, after the railway commission has gone into this matter very carefully, with all the technical advice they have, that you are likely to find another body who would be able to give more careful consideration to these problems than the railway board itself?—A. Yes, and I can give you chapter and verse for it, too. When we appeared before the Board of Railway Commissioners on the freight rates question from British Columbia we had facts to prove that the grade from British Columbia was the lowest in Canada. We asked the railway companies to show proof that the export rate did not pay, or did pay. They refused to do that. But our argument before the board was this: we had the lowest grade of any railway in Canada; why should we be called upon to pay twice the amount when the upkeep, considering costs, have all been the lowest? Do you not think we had the right, after being turned down, to go before an appeal court, because the Board of Railway Commissioners held, as the decision had been made away back in 1909 and a precedent had been set, they did not feel like reversing those old decisions.

The CHAIRMAN: That is the principle is not changed; but circumstances and conditions vary, and the board takes that into account. The fundamental principles that have been laid down as part of the rate structure are respected, and they have to be respected if you want to have any stability.

The WITNESS: I do not think anyone would doubt that if they have read the last judgment in connection with the appeal from freight rates.

By Mr. Young:

Q. Granted that some of us who make applications either to the Board of Railway Commissioners or to the Privy Council do not get the answer which we desire and we would like to have some court of appeal; my question was, if you set up such a court, what would be the possibility of getting a better court? I was before the Privy Council on a rate something akin to the one that my friend Mr. Reid had some difficulty with in which the Privy Council took no action whatever. The question is just to what court of appeal can we go? I think we are in the same difficulty here as Mr. Reid was in when he answered the question. He said: "I am not sure; I do not know." So far as I am concerned I do not believe that the Supreme Court of Canada would be competent, would be in the position, would be able to go into the matter in the same way as the Board of Railway Commissioners can do. I am quite sure the cabinet is not disposed to go into the technical matters. When it involves national policy I think perhaps appeals may be taken to the Privy Council. I believe that is why that

section is in the Act, but when you come to real technical matters I have not yet been able to find out the court of appeal to which I think we might go or recommend parliament to amend the Act to give somebdy to whom we might go. If Mr. Reid knows something of that kind I should be very glad, as one member of the committee, to hear it.—A. The thought I am endeavouring to convey is this: by this Act you are going to set up a new Board of Transportation Commissioners which, in effect, will be, with the addition of some further experts and some members, the Board of Railway Commissioners. Now, they can look into the question of transportation by air or otherwise and maintain that the decisions that have been made and rendered in regard to railway matters shall be the guide in the future decisions. To get around that you will either have to change the wording of the Act or give us a better court of appeal.

By Mr. Heaps:

Q. Do you know of any other bodies who favour the establishment of a court of appeal over the decisions given by the Board of Railway Commissioners?—A. Do I know of any bodies?

Q. Any organized body, such as those you are representing here this morning?—A. I do not think representations have been made regarding a new court of appeal other than opinions given by those who have had to do with the matter.

The CHAIRMAN: At any rate, I do not believe that we are considering that for the time being, but we might consider it when we come to the sections of the bill.

I think it is good that Mr. Reid should have drawn this to the attention of the members of the committee. They can think it over; and when we come to the sections of the bill where the question of appeal arises, we will then be better informed. I would again ask the committee if they have any further questions to ask Mr. Reid. If not, then we thank you very much, Mr. Reid, for your very able presentation.

Witness retired.

Now, gentlemen, this concludes the agenda for this morning. On Thursday morning and Thursday afternoon we shall have the Canadian Automotive Transportation Association, Automotive Transports Association of Ontario as well as the Conduit Company and Mr. Rheaume. If we can, we shall hear the Hamilton Chamber of Commerce, the Montreal Board of Trade and the Toronto Board of Trade.

Mr. HEAPS: In the afternoon?

The CHAIRMAN: Either in the morning or in the afternoon. Then on Friday we shall hear the Canadian Industrial Traffic League, Mr. Burchell who represents the governments of the Maritime Provinces, the provincial government of Quebec, the Canadian National Millers Association, and the Montreal Corn Exchange Association. That will conclude, I think, the hearing of witnesses, except that on Tuesday, Captain Foote of the Foote Transit Company and Mr. Campbell will be here for a short period, as they were unable to come to-day. Thereafter the carriers will be invited to make any further submissions they may desire before we take the bill clause by clause.

We shall adjourn now until 10.30 a.m. on Thursday morning of this week.

The Committee adjourned at 12.42 p.m., to meet again on Thursday, May 12, at 10.30 a.m.

APPENDIX

CANADIAN PACIFIC RAILWAY COMPANY

LAW DEPARTMENT

MONTREAL, May 9, 1938.

Lt.-Col. THOMAS VIEN, M.P., Chairman,
Committee on Railways, Canals and Telegraphs,
House of Commons,
Ottawa.

DEAR SIR,—In the Minutes of the Proceedings respecting Bill 31 on Thursday, May 5, there are a few errors to which in the interest of accuracy I direct attention.

1. At the end of the fifth complete paragraph on page 39, the words "objections or practices" should be "objectionable practices."

2. In the last line of the fourth paragraph on page 40 the word "legislation" should be "regulation."

3. In the sixth line on page 42 the word "discrimination" should be "distinction."

4. In the fourth line from the bottom of page 52 the word "submitted" should be "objected."

5. In the fourteenth line on page 53 the word "occasion" should be "case."

6. In the thirteenth line on page 54 "Road and Rule Traffic Act" should read "Railway and Canal Traffic Act."

7. In the sixth line on page 56 there should be a full stop after the words "from time to time" and the rest of the paragraph should read as follows:—

> On what principle can it be contended that the Railways who are obliged to maintain an efficient system in operation at all seasons and at whatever cost, should be subjected to the competition of unregulated carriers who may carry on the basis of agreed charges or whatever basis of cut-throat competition they may see fit to introduce?

8. In the third line on page 57 the last two lines should read:—
whether he is shipping goods of the same or a similar character to those to which the agreed charge relates. They widen the field to that extent.

9. In the fifth paragraph on page 57 the word "regulation" in the second line of the paragraph should be "situation."

10. In the last paragraph on page 57 the words "cannot meet" in the second line should be "can compete."

11. On page 61, line twenty-seven, the word "grain" at the end of the line should be "flour."

Yours very truly,

G. A. WALKER,
General Solicitor